

pharynx have a low five-year survival rate in spite of intensive treatment. This is because the diagnosis is seldom made when the cancer is in its early stages. Good results have been and will be obtained in early cases treated *adequately*. Good results cannot be expected in this or any other cancer, when therapy is instituted after metastases have appeared. Delay in diagnosis assures a fatal outcome. Neither you nor

your patient are entitled to temporize with a condition that could be cancer. The patient's entire future depends on your making an early, correct diagnosis and seeing to it that proper therapy is started at once.

"*Cancer of the Larynx*," by Simon Josberg, M.D., Chapter XIV of the *California Cancer Commission Studies* will appear in this section of the March issue of CALIFORNIA MEDICINE.



The Responsibility of the General Practitioner in Neoplastic Disease

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THERE is no difference in respect to the practitioner's legal duty to a patient with neoplastic disease than in any other case. When the physician undertakes to render professional services to any patient, he assumes certain legal obligations. He must possess the degree of skill and knowledge commonly possessed by other reputable physicians in the community; he must exercise a degree of care, diligence, and judgment equal to that of other practitioners who engage in treating similar cases; and he must keep abreast of progress in the profession, utilizing accepted and standard procedures in diagnosis and in treatment.

The relationship of physician and patient is one of trust and confidence, requiring that the physician act at all times with the utmost good faith toward his patient. This demands for example: that the attending physician, if he doubts his ability to care for a particular case, must so inform the patient; and that, if he feels that a consultant would be of benefit, he must so advise the patient or he must call in a consultant.

The attending physician must act, at all times, in a manner consistent with the standard of practice in the community. The standard of practice is established by what the ordinary, reputable physician would do and what he would refrain from doing in the care of a similar case.

The standard of practice applies to diagnosis as well as to treatment. If the ordinary practitioner would, in the face of a particular case, utilize certain procedures, x-ray, biopsy, etc., the standard is thus established in that type of case. And standard procedures must be followed if the physician is to avoid a legitimate charge of malpractice in the care he renders to a case of that particular kind.

There is being manifested in this locality an increasing interest in, and attention to, the problem of cancer. The lay group are being impressed with the importance of early diagnosis in cancer. If there is apparent delay in diagnosis, or if there is a failure to take advantage of facilities provided, there is likelihood of suit.

For illustration, we have recently had a case wherein a patient, complaining of relatively vague

digestive tract symptoms, was carried along without an x-ray examination and without definitive diagnosis for 15 months. The patient then presented a massive carcinoma of the stomach with metastases. It is not unlikely, in such circumstances, that a court would find against the physician-defendant. In another case, a physician "awaited developments" when a woman of about 45 presented a small mass in the breast. This was unfortunate for the patient and eventually for the physician.

There is no doubt but that the practitioner can immeasurably safeguard himself, by making use of the nearest tumor board, whenever he has a patient who may have neoplastic disease. If there is the slightest doubt in the physician's mind, and he is not able to assure himself that the patient does not have cancer, then he should protect the patient and safeguard himself by taking advantage of the consultative facilities which are available.

The people of California's communities are becoming informed of the existence, purpose, and method of functioning of tumor boards and detection clinics. The fact that many of our physicians are utilizing these facilities in connection with their doubtful or problem cases, is tending to establish their use as being within the standard of practice. It must not be forgotten that the failure to render care consistent with the standard of practice constitutes malpractice, if the patient thereby suffers injury.

In the past the majority of malpractice claims associated with cancer cases have been based upon the allegation of x-ray injury. In the future, it is readily foreseeable, there will be more suits based upon the claim of failure to diagnose, or delay in diagnosing, an existing malignancy. If there has, then, been a failure to make use of facilities, about which even the layman is informed, it must be anticipated that that failure in itself will almost be regarded as *prima facie* negligence on the part of the attending physician.

It is well known that malpractice claims are not uncommon in California. A physician is unwise indeed who, in this area, does not take positive steps to keep himself out of court.